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EXAMINER

RAPILLO, KRISTINE K

ART UNIT

PAPER NUMBER

3626

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/650,569	Applicant(s) GOTTESMAN, JANELL M.	
	Examiner KRISTINE K. RAPILLO	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1 – 20 are pending.

Notice to Applicant

1. This communication is in response to the amendment filed 12/18/2007. The following has occurred: The specification and the drawings were amended; the claims were not amended. Claims 1 – 20 are presented for examination.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 – 9, 11 – 13, and 15 – 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson (U.S. Publication No. 2004/0078220 A1) in view of Norris et al. (U.S. Patent No. 6,669,631).

In regard to claim 1, Jackson teaches a system comprising:

- A patient portal to the central manager for gathering information (paragraphs [0078] and [0092]). The examiner interprets the personalized patient website to be equivalent to a patient portal disclosed by Jackson.

Art Unit: 3626

- A physician portal to the central manager for providing the gathered information (paragraph [0054]) – Jackson discloses a web based medical network of which a physician would have access, obtaining diagnostic information (paragraph [0030]), wherein the central manager retrieves selected educational content for delivery through the patient portal based on the diagnostic information (paragraph [0054]). The examiner interprets health care delivery to include education information based on a patient diagnosis.

Jackson fails to explicitly teach a database system with access to medical educational content.

Norris et al. teaches a central manager having a database with access to medical educational content for patients (column 11, line 29 through column 12, line 4 and column 12, lines 28 – 46).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a central database system with access to medical educational content as taught by Norris et al. with the motivation of enabling physicians or other care givers the ability to provide tailored health care information to patients based on a medical diagnosis (column 5, lines 43 – 50).

In regard to claim 2, Jackson teaches a central manager database system as per claim 1.

Jackson fails to explicitly teach a system of information gathered from implantable medical devices.

Norris et al. teaches a system wherein the gathered information includes performance data from an IMD (column 5, lines 29 – 36).

The motivation for combining the teachings of Jackson and Norris et al. is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 3, Jackson discloses, as per claim 1, wherein the central manager retrieves the selected educational content based on a diagnostic code (paragraphs [0065] and [0066]). The examiner interprets the 'common language and code' taught by Jackson to include diagnostic codes in reference to a patients diagnosis. Therefore, information (both education and historical) can be acquired via the use of codes.

In regard to claim 4, Jackson teaches a system as per claim 1.

Jackson fails to teach a system where the central database retrieves educational materials selected by physician instructions.

Norris et al. teaches a system wherein the central manager retrieves the selected education content based on physician instructions received through the physician portal (column 15, lines 4 – 10 and lines 19 – 29).

The motivation for combining the teachings of Jackson and Norris et al. is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 5, Jackson teaches a system comprising:

- Means for providing the patient information to a physician and receiving a diagnosis based on the information (paragraph [0031]. Jackson teaches the use of an application service provider to transmit patient information to a physician as well as providing a patient with a diagnosis.
- Means for generating an information collection deliverable to a patient (paragraph [0054]). Jackson teaches a system where the means for generating information for a patient is accomplished via a web-based network.

Jackson fails to explicitly teach a means for gathering patient information.

Norris et al. teaches a means for gathering information (column 13, lines 47 – 52) via a public domain database.

The motivation for combining the teachings of Jackson and Norris et al. is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 6, Jackson teaches a method for conducting remote medical evaluations, the method comprising:

- Receiving diagnostic information through the physician portal from the physician based on the medical information (paragraph [0081]);
- Identifying educational content relevant to the diagnostic information (paragraph [0081]; and
- Providing the diagnostic information and educational content through the patient portal (paragraph [0081]).

Jackson fails to teach a method of receiving patient medical information via a patient portal or a method of providing medical information to a physician through a physician portal.

Norris et al. teaches a method of receiving medical information from a patient through a patient portal into a central server (column 12, line 66 through column 13, line 10) and providing the medical information to a physician through a physician portal that is in communication with the central server (column 5, lines 12 – 16).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a method of receiving patient medical information via a patient portal or a method of providing medical information to a physician through a physician portal as taught by Norris et al. with the motivation of monitoring a patients medical history and providing diagnostic, therapeutic, and educational materials via a computer system (column 1, lines 8 – 17).

In regard to claim 7 Jackson discloses, as per the method of claim 6, Jackson teaches a method further comprising:

- Receiving a request through the physician portal to conduct a remote evaluation with the patient from a physician (paragraph [0029]);
- Providing a medical questionnaire to the patient (paragraph [0071]) where the prompts for information initiated by the network is equivalent to a questionnaire;
- and

- Receiving the completed questionnaire from the patient as part of the medical information (paragraph [0072]).

In regard to claim 8, Jackson teaches a method as per the method of claim 7.

Jackson fails to explicitly teach receiving data from an implanted medical device.

Norris et al. teaches a method to include receiving device data from an IMD implanted within the patient, wherein the device data forms part of the medical information (column 5, lines 29 – 36).

The motivation for combining the teachings of Jackson and Norris et al. is discussed in the rejection of claim 6, and incorporated herein.

In regard to claim 9 Jackson discloses, as per the method of claim 6, Jackson teaches a method further comprising generating an electronic prescription as part of the diagnostic information; and transmitting the electronic prescription to a pharmacy (paragraph [0075]).

In regard to claim 11 Jackson discloses, as per the method of claim 6, Jackson teaches a method further comprising: providing an electronic medical record correlated to the patient (paragraph [0064]); and updating the electronic medical record based on the diagnostic information (paragraph [0080]).

In regard to claim 12 Jackson discloses, as per the method of claim 6, Jackson teaches a method further comprising providing instructions through the physician portal to follow up personnel based on the diagnostic information (paragraph [0081]).

In regard to claim 13, Jackson discloses, as per the method of claim 6, Jackson teaches a method wherein the educational content is identified based on diagnostic codes (paragraph [0065] and [0066]).

In regard to claim 15, Jackson teaches a method for conducting remote medical evaluations, the method comprising:

- Accessing a physician portal linked with a central manager (paragraph [0055]);
- Receiving patient medical information including IMD data through the physician portal from a patient;
- Evaluating the patient medical information (paragraph [0106]);
- Rendering a diagnosis (paragraph [0080]);
- Selecting educational content for delivery to the patient (paragraph [0054]);
- Sending the diagnosis and the educational content through the physician portal to the patient (paragraph [0054]); and
- Billing for the remote medical evaluation (paragraph [0058]).

Jackson fails to teach a method to receive patient medical information through the physician portal from a patient.

Norris et al. teaches a method in which patient medical information, including IMD data, is received through the physician portal from a patient (column 5, lines 29 – 36).

The motivation for combining the teachings of Jackson and Norris et al. is discussed in the rejection of claim 6, and incorporated herein.

In regard to claim 16, Jackson discloses, as per the method of claim 15, further comprising notifying additional personnel of follow-up activities for the patient through the physician portal (paragraph [0081]).

In regard to claim 17, Jackson discloses, as per the method of claim 15, further comprising updating an electronic medical record corresponding to the patient (paragraph [0080]).

In regard to claim 18, Jackson discloses, as per the method of claim 15, further comprising generating an electronic prescription (paragraph [0075]).

In regard to claim 19, Jackson teaches a method as per the method of claim 15.

Jackson fails to teach a method where the educational material is selected based on suggested information from the central database.

Norris et al. teaches a method wherein the educational content is selected based on suggested information received from the central manager (column 5, lines 17 – 28).

The motivation for combining the teachings of Jackson and Norris et al. is discussed in the rejection of claim 6, and incorporated herein.

In regard to claim 20, Jackson teaches, as per claim 19, a method wherein the suggested information is generated based on diagnostic codes (paragraphs [0065] and [0066]).

3. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson in view of Norris et al. as applied to claim 6 above, and further in view of www.WebMD.com (November, 2002).

In regard to claim 10, Jackson and Norris et al. teach a method for conducting remote medical evaluations as per claim 6.

Jackson and Norris et al. fail to explicitly teach a method wherein the educational content includes one or more topics selected from the group: disease education, medical device education, general medical information, diet, exercise, or clinical resources.

www.WebMD.com teaches a method where the educational content includes disease education (referred to as Medical Information on the WebMD website), medical device education (can be found in the Clinical Trials section of the WebMD website), general medical information (referred to as Medical Library on the WebMD website), diet (referred to as Food and Nutrition on the WebMD website), exercise (referred to as

Sports and Fitness on the WebMD website), or clinical resources (referred to as Clinical Trials on the WebMD website).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a method where the educational material is includes disease education, medical device education, general medical information, diet, exercise, or clinical resources as taught by www.WebMD.com with the motivation of providing a toll to manage health concerns (paragraph 21) in which you can find education material in regard to diseases, exercise, nutrition, physicians, and more.

4. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson in view of Norris et al. as applied to claim 6 above, and further in view of Lin et al. (E-healthcare: A vehicle of change. American Business Review. West Haven: Jun 2002. Vol. 20, Iss. 2; page 27, 6 pages).

In regard to claim 14, Jackson and Norris et al. teach a method for conducting remote medical evaluations as per claim 6.

Jackson and Norris et al. fail to teach a method of customer loyalty.

Lin et al. teaches a method of providing customer loyalty information through the physician portal (paragraph [0023]).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a method of providing customer loyalty information through the physician portal as taught by Lin et al. with the motivation of

providing a secure means of transmitting patient data to appropriate parties - i.e. pharmacist, specialist (paragraph 22).

Response to Arguments

5. Applicant's arguments filed 12/18/2007 have been fully considered but they are not persuasive. Applicants arguments will be addressed hereinbelow in the order they appear in the response filed 12/18/2007.

In regard to claim 1, the applicant argues that there is not teaching or suggestion for a physician portal to the central manager for providing the gathered information, obtaining diagnostic information, wherein the central manager retrieves selected educational content for delivery through the patient portal based on the physician's diagnostic information. As stated in the rejection of claim 1, Jackson teaches a physician portal (paragraph [0092]) to the central manager for providing the gathered information (paragraphs [0022] and [0054]), and obtaining diagnostic information (paragraph [0071]). In addition, Figure 7 of Jackson illustrates the relationship of a patient portal, physician portal, and a central website (which is equated to the central manager). Norris et al. teaches a system in which educational medical content (column 15, lines 4 – 10) is transmitted to a central site based on a physician's diagnosis (column 11, lines 25 – 44). It would be obvious to a person of ordinary skill at the time the invention was made to incorporate Norris et al.'s system of transmitting educational material based on a physician's diagnosis into the system taught by Jackson.

Therefore, the applicant's argument is non-persuasive as the combined teachings of Jackson and Norris et al. describe the applicant's invention.

In regard to claim 6, the applicant argues that there is not a teaching or suggestion of a comprehensive system that receives diagnostic information through the physician portal from the physician based on the medical information and identifies educational content relevant to the diagnostic information. Jackson teaches a system in which diagnostic information is transmitted through the physician portal to a central server (Figure 7 and paragraph [0029]). In addition, the system as taught by Norris et al. transmits educational content relevant to the diagnosis via messages and reports (column 15, lines 4 - 10). Therefore, the applicant's argument is non-persuasive as the combined teachings of Jackson and Norris et al. describe the applicant's invention.

In regard to claim 10, the applicant argues that the reference fails to teach a method of identifying educational content relevant to the diagnostic information provided by the physician. As stated in the rejection of claim 10, www.WebMD.com does teach a method in which the educational content is selected from various topics. The information may be retrieved based on a physician's diagnosis, as there is no limitation stating that the educational content will be automatically transmitted to the patient. The claim, as interpreted by the Examiner, reads such that the educational information may be provided to a patient in a variety of ways (for instance, e-mail or hyperlink).

Therefore, the applicant's argument is non-persuasive.

In regard to claim 14, the applicant argues that there is not teaching or suggestion of a method of providing customer loyalty through the physician portal. As stated in the rejection of claim 14, Lin et al. teaches a method of providing customer loyalty information through the physician portal. Lin et al. teaches that using a physician portal will reduce the burden of the physician by reducing paperwork, which will thus make the physician portal more attractive. Therefore, the applicant's argument is non-persuasive as the combined teachings of Jackson, Norris et al., and Lin et al. describe the applicant's invention.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTINE K. RAPILLO whose telephone number is (571)270-3325. The examiner can normally be reached on Monday to Thursday 6:30 am to 4 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-3776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KKR

/C. Luke Gilligan/
Primary Examiner, Art Unit 3626